

ANDERECK, EVANS, MILNE, PEACE & JOHNSON, L.L.C.

ATTORNEYS AT LAW

P.O. BOX 1438

700 EAST CAPITOL

COL. DARWIN MARMADUKE HOUSE

JEFFERSON CITY, MISSOURI 65102-1438

TELEPHONE 573-634-3422

FAX 573-634-7822

EUGENE E. ANDERECK

TERRY M. EVANS

ERWIN L. MILNE

JACK PEACE

CRAIG S. JOHNSON

RODRIC A. WIDGER

GEORGE M. JOHNSON

BEVERLY J. FIGG

WILLIAM S. LEWIS

VICTOR S. SCOTT

COREY K. HERRON

MATTHEW M. KROHN

LANETTE R. GOOCH

SHAWN BATTAGLER

ROB TROWBRIDGE

JOSEPH M. PAGE

LISA C. CHASE

OF COUNSEL:

MARVIN L. SHARP

PATRICK A. BAUMHOER

GREGORY C. STOCKARD (1904-1993)

PHIL HAUCK (1924-1991)

November 10, 2000

Mr. Dale Hardy Roberts
Secretary/Chief Administrative Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED

NOV 13 2000

Re: TO-2000-667, Local Plus Resale

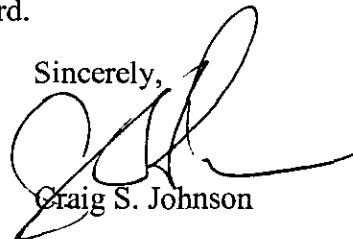
Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed please find an original and eight (8) copies of the MITG's Motion to Declassify or challenge certain highly confidential and proprietary designations of Data Responses and documents included in the Data Responses in the above-referenced case. Pursuant to the Protective Order entered in this case, Southwestern Bell shall have five (5) days after the filing of this challenge to file a response, and no other filings are authorized.

I would appreciate your bringing this to the attention of the Commission and informing all parties of the Commission's ruling in this regard.

Sincerely,



Craig S. Johnson

CJS:tr

Enc.

cc: David Jones
Office of Public Counsel
PSC General Counsel
Paul G. Lane
Leo J. Bub
Anthony K. Conroy
Mimi B. MacDonald
Paul S. DeFord
Kevin Zarling
W.R. England, III

FILED

BEFORE THE PUBLIC SERVICE COMMISSION

NOV 13 2000

STATE OF MISSOURI

**Missouri Public
Service Commission**

**In the Matter of the Investigation into the)
Effective Availability for Resale of South-)
western Bell Telephone Company's Local)
Plus Service by Interexchange Companies))
and by Facilities-based Competitive)
Local Exchange Companies.)**

Case No. TO-2000-667

MOTION TO DECLASSIFY

Comes now the MITG pursuant to the provisions of the Commission's September 12, 2000 Protective Order entered in this case and challenges, or moves to declassify, certain designations SWB has made regarding certain data responses in this case. In support hereof, the MITG sets forth the following:

1. On or about August 29, 2000, the MITG made the following data requests to SWB:
 4. Please produce copies of all correspondence, memorandum, emails, or other documented communications of SWB pertaining to the programming of Ericsson switches and recording systems for the termination of LP traffic, the creation of terminating compensation records, and the payment of terminating compensation for terminating LP traffic.
 5. Please produce copies of all correspondence, memorandum, emails, or other documented communications of SWB pertaining to the programming of all other switch types besides Ericsson switches, and recording systems, for the termination of LP traffic, the creation of terminating compensation records, and the payment of terminating compensation for terminating LP traffic.

6. Joyce L. Dunlap's August 17, 2000 email correspondence to Ed Dunvant, et al., references call code 001 as being "local" and call code 006 as being "toll". Please produce a copy of all documents or manuals setting forth and describing all "call codes" that SWB can apply at its switches or recording systems.

9. Please describe with specificity the steps taken to correct the problem described in Ms. Dunlap's August 17, 2000 email correspondence, and the name, address, and capacity of each SWB employee who participated in the steps taken to correct the problem.

10. Please produce copies of all communications between SWB employees regarding the discovery of the Ericsson switch problem referenced in Ms. Dunlap's August 17, 2000 email correspondence, the correction of the Ericsson switch problem, the records available to perform a retroactive compensation adjustment, or the possible methods in which the compensation adjustment could be performed.

11. Has SWB verified that the problem with the Ericsson switches referenced in Ms. Dunlap's August 17, 2000 email correspondence does not exist with SWB's other switches? Please produce copies of all studies, tests, or correspondence reporting the results of such tests or verifications, and the name, last known address, and capacity of each SWB employee participating in such verification or test.

2. With respect to its responses to data requests 4, 5, 9, 10, and 11, SWB has provided counsel with copies of several internal email communications between SWB operating personnel. In those responses SWB stated that "SWBT would refer MITG to the attached material. Information in the attached documents is proprietary". The individual document pages were not stamped "proprietary".

The internal email communications do not qualify as "proprietary" documents pursuant to the Protective Order entered in this case. These documents are merely internal communications between SWB personnel concerning network and translation changes necessary to the implementation of LP service, later discovery of translation errors, and subsequent correction of translation errors. As such the documents do not

contain information qualifying as "trade secrets, confidential or private technical, financial, and business information" justifying a proprietary designation.

Copies of the documents in question can be provided by undersigned counsel if necessary for an in camera review in conjunction with considering this motion.

3. With respect to DR # 11, SWB's response indicated that "this information is proprietary and voluminous. It can be viewed by making arrangements..." On November 8, 2000 undersigned counsel was provided an opportunity to review the documents responsive to this request in SWB's Jefferson City office, but was not allowed to obtain copies of these documents. These documents consisted of copies of printouts of routing and/or call codes for LP traffic in the various Missouri LATAs, and also consisted of printouts of NXXs in the LATAs which could be dialed locally. There were also printouts with handwritten notations dated 9-8-00 for a Kennet switch, 9-1-00 for a Mexico switch, 9-18-00 for a Knobnoster switch, 9-8-00 for a Sedalia switch, and 9-7-00 for a Marshall switch. These notations depict what type of call code/routing changes were made on those dates. The documents produce did not include any verifying whether or not the Ericsson switch problems were found at other SWB switches.

SWB did not classify these documents as "highly confidential", the only classification which would justify requiring counsel to view them on premises as opposed to providing copies. These documents were not so voluminous that copies could not have been provided counsel. These documents were contained in a 1 inch loose-leaf binder.

These documents do not qualify as "proprietary" documents. They do not concern information concerning trade secrets, or confidential or private technical, financial and business information. Information as to what code or routing translations

SWB has done, and what corrections have been made, is not proprietary. In its prefiled direct and rebuttal testimony SWB has made references to call codes with any such designations. In TT-98-351 SWB represented to the Commission and to the small company that they would allow unfettered access to information such as this that would be necessary for small companies to audit or verify that proper LP terminating compensation was flowing.

Undersigned counsel asks the Commission to Order SWB to produce these documents for an in camera review if necessary to rule on this request.

4. SWB's response to DR # 6 stated SWB's view that responsive documents were "highly confidential", and arrangements to review them could be made with SWB personnel. On November 8, 2000 undersigned counsel was provided an opportunity to review the documents responsive to this request in SWB's Jefferson City office, but was not allowed to obtain copies of these documents. The document produced consisted of a manual denominated "Telecordia Technologies Comptrollers Automatic Message Accounting Format Description, Volume IV", issued December 1999. This manual is approximately 700 pages in length. It contains an index of call codes from 001 to 999, and separate pages describing these calls codes.

MITG challenges the "highly confidential" designation. Call codes that SWB uses to route and/or create billing records is not customer specific, is not employee-sensitive, does not qualify as a marketing analysis, does not qualify as reports, work papers, or other documentation related to work produced by auditors or consultants, and does not reveal contract negotiation strategies. This information does not qualify for the

"proprietary" classification either, as it is not information pertaining to trade secrets, confidential, or private technical, financial, and business information.

In TT-98-351 SWB represented to the Commission and to the small company that they would allow unfettered access to information such as this that would be necessary for small companies to audit or verify that proper LP terminating compensation was flowing. Carriers must have access to this information for purposes of developing, reviewing, compensating, and auditing of interconnections, signaling protocols, and billing systems. Telcordia makes this manual available to carriers other than SWB, so this is not private information. It is not a trade secret as to the existence of routing codes, neither is it a trade secret as to which codes SWB uses to code or route traffic.

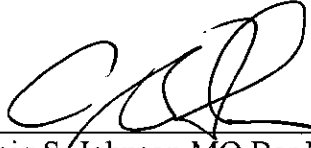
In order to evaluate the call codes in place since implementation of LP, as well as evaluate the call code changes that SWB has made for LP and OCA traffic, it is necessary for counsel for the MITG to have technical assistance of switching/network personnel. These persons must have access to copies of this document in order to make this evaluation. Under a "HC" designation this cannot be done.

Undersigned counsel asks the Commission to Order SWB to produce these documents for an in camera review if necessary to rule on this request.

WHEREFORE, on the basis of the foregoing, MITG requests that the Commission enter an order declassifying the above referenced documents and data responses, and requests that the Commission Order SWB to provide copies of the documents for which copies have not been provided.

ANDERECK, EVANS, MILNE,
PEACE & JOHNSON, L.L.C.

By


Craig S. Johnson MO Bar No. 28179
The Col. Darwin Marmaduke House
700 East Capitol
Post Office Box 1438
Jefferson City, Missouri 65102
Telephone: (573) 634-3422
Facsimile: (573) 634-7822

ATTORNEYS FOR MITG

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 10th day of November, 2000, to all attorneys of record in this proceeding.


Craig S. Johnson MO Bar No. 28179